

## § 4279.227

## 7 CFR Ch. XLII (1–1–14 Edition)

the percent of guarantee and will be paid one time only at the time the Loan Note Guarantee is issued.

(1) For loans receiving a 90 percent guarantee, the guarantee fee is three percent.

(2) For loans receiving less than a 90 percent guarantee, the guarantee fee is:

(i) Two percent for guarantees on loans greater than 75 percent of total project costs.

(ii) One and one-half percent for guarantees on loans of greater than 65 percent but less than or equal to 75 percent of total project costs.

(iii) One percent for guarantees on loans of 65 percent or less of total project costs.

(b) *Annual renewal fee.* The annual renewal fee, which may be passed on to the borrower, will be paid to the Agency for as long as the guaranteed loan is outstanding and is payable during the construction period. Unless otherwise specified by the Agency in a notice published in the FEDERAL REGISTER, the annual renewal fee shall be as follows:

(1) One hundred basis points (1 percent) for guarantees on loans that were originally greater than 75 percent of total project costs.

(2) Seventy five basis points (0.75 percent) for guarantees on loans that were originally greater than 65 percent but less than or equal to 75 percent of total project costs.

(3) Fifty basis points (0.50 percent) for guarantees on loans that were originally for 65 percent or less of total project costs.

### § 4279.227 Borrower eligibility.

Borrower eligibility will be determined according to the provisions of this section in lieu of § 4279.108.

(a) *Eligible entities.* To be eligible, a borrower must meet the requirements specified in paragraphs (a)(1) and (a)(2) of this section, as applicable.

(1) *Type of borrower.* The borrower must be one of the following:

- (i) An individual;
- (ii) An entity;
- (iii) An Indian tribe;
- (iv) A unit of State or local government;
- (v) A corporation;

(vi) A farm cooperative;

(vii) A farmer cooperative organization;

(viii) An association of agricultural producers;

(ix) A National Laboratory;

(x) An institution of higher education;

(xi) A rural electric cooperative;

(xii) A public power entity; or

(xiii) A consortium of any of the above entities.

(2) *Legal authority and responsibility.* Each borrower must have, or obtain before loan closing, the legal authority necessary to construct, operate, and maintain the proposed facility and services and to obtain, give security for, and repay the proposed loan.

(b) *Ineligible entities.* A borrower will be considered ineligible for a guarantee if the borrower, any owner with more than 20 percent ownership interest in the borrower, or any owner with more than 3 percent ownership interest in the borrower if there is no owner with more than 20 percent ownership interest in the borrower:

(1) Has an outstanding judgment obtained by the U.S. in a Federal Court (other than U.S. Tax Court),

(2) Is delinquent on the payment of Federal income taxes,

(3) Is delinquent on a Federal debt, or

(4) Is debarred or suspended from receiving Federal assistance.

### § 4279.228 Project eligibility.

In lieu of the requirements specified in § 4279.113, to be eligible for a guaranteed loan under this subpart, at a minimum, a borrower and project, as applicable, must meet each of the requirements specified in paragraphs (a) through (g) of this section.

(a) The project must be located in a State, as defined in § 4279.2.

(b) The project must be for either:

(1) The development and construction of commercial-scale biorefineries using eligible technology or

(2) The retrofitting of existing facilities, including, but not limited to, wood products facilities and sugar mills, with eligible technology.

(c) The project must use an eligible feedstock for the production of advanced biofuels and biobased products. Eligible feedstocks include, but are not